

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 4.12.1308 pertaining to an) PROPOSED AMENDMENT
exterior plant health quarantine for)
Japanese beetle)

TO: All Concerned Persons

1. On May 29, 2013, at 3:00 p.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Agriculture no later than 5:00 p.m. on May 23, 2013, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59601; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

4.12.1308 PLANT HEALTH QUARANTINES (1) through (3)(a) remain the same.

(b) Late Blight Quarantine; (*Phytophthora infestans*);~~;~~ See Order MTQ-2008-02.

(c) Japanese Beetle; (*Popillia japonica* Newman);~~;~~ See Order MTQ-2008-03. Intrastate Quarantine.

(d) Japanese Beetle; (*Popillia japonica* Newman). See Order MTQ-2013-01. Interstate Quarantine.

AUTH: 80-7-402, MCA

IMP: 80-7-402, MCA

REASON: The department proposes to amend ARM 4.12.1308, to include the external quarantine for Japanese beetle, *Popillia japonica* Newman, to provide protection to the state of Montana's agricultural and horticultural industries. Restrictions apply only to other states and provinces or portions of states and provinces known to have Japanese beetle. The external quarantine provides the conditions under which nursery stock may be imported into Montana.

The quarantine has no direct financial impact on Montana businesses (small or large) but may cause additional base nursery stock costs if the particular stock is sourced from a known infested area and alternatives prove more expensive. The

department has no way of directly knowing what if any effect this would have on individual business.

The department further proposes to correct punctuation errors and clarification of interstate and intrastate in the rule.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

5. Cort Jensen, Chief Legal Officer, Department of Agriculture, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's web site at agr.mt.gov, under the Administrative Rules section. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ron de Yong
Ron de Yong
Director
Department of Agriculture

Certified to the Secretary of State April 29, 2013.